

**CITY OF ALAMEDA PLANNING BOARD
DRAFT RESOLUTION**

RECOMMENDATION TO THE CITY COUNCIL THAT THE CITY OF ALAMEDA ADOPT REZONING, (PLN11-0046) FOR ONE PARCEL LOCATED AT 1348 WEBER STREET (APN 073 039702600). THE SITE IS LOCATED WITHIN A NEIGHBORHOOD COMMERCIAL ZONING DISTRICT.

WHEREAS, an application was made on February 25, 2011, by Lieselotte Coler-Dark, requesting a Rezoning of an existing site developed with a duplex dwelling currently designated C-1, Neighborhood Commercial District; and

WHEREAS, the application was accepted as complete on March 03, 2011; and

WHEREAS, the subject property is designated as Neighborhood Commercial on the General Plan Diagram; and

WHEREAS, the subject property is a residence located in a C-1, Neighborhood Commercial Zoning District; and

WHEREAS, the applicant requests a Rezoning from Neighborhood Commercial to R-4, Neighborhood Residential; and

WHEREAS, the proposed Rezoning would support the residential use of the site; and

WHEREAS, the Planning Board held a duly noticed public hearing on April 11, 2011 to consider the proposed Rezoning; and

WHEREAS, the Planning Board has made the following findings relative to the proposed rezoning from C-C, Community Commercial District to R-5, General Residential:

1. **The proposed rezoning does not affect the integrity of the General Plan.** The General Plan definition of the Neighborhood Business District states, "Residential use is encouraged on the second floor and is permitted elsewhere" (General Plan page 2-3). Therefore, the designation of an existing residence as residential district would not conflict with the permitted uses of the Neighborhood Business District.
2. **The proposed rezoning does not adversely affect the general welfare of the community.** The proposed rezoning will preserve existing housing stock. The subject property is now and historically has been used as a residential structure. The proposed rezoning is consistent with the use of this property and will allow continued investment in the property, which is currently prohibited due to the

nonconforming status of the property. The rezoning will not result in substantial changes to the existing use and will therefore be compatible with neighboring residential uses.

3. **The proposal is equitable.** The proposal to rezone a parcel to match the adjacent residential uses is equitable in that the existing nonconforming residential use, that was previously zoned residential, shall be made conforming. The City has previously rezoned adjacent properties for the same reason.

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Board of the City of Alameda hereby determines that the Rezoning does not present a significant effect on the environment and is Categorically Exempt from further environmental review pursuant to the Guidelines for the California Environmental Quality Act (CEQA) Section 15305 – Minor Alterations in Land Use Limitations, because the project involves changing the zoning to reflect the current residential use of the property and will not change the allowed density of the site.

BE IT RESOLVED that the Planning Board of the City of Alameda hereby recommends to the City Council that it adopt an Ordinance approving the Rezoning, changing the zoning district from C-1, Neighborhood Commercial Zoning District to R-4, Neighborhood Residential District, as shown in Exhibit A to this resolution, subject to compliance with the following conditions:

- (1) **HOLD HARMLESS.** The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Alameda, its Redevelopment Agency, the Alameda City Planning Board and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Alameda, Alameda Redevelopment Agency, Alameda City Planning Board and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Alameda, the Community Development Department, Alameda City Planning Board, the City of Alameda Redevelopment Agency or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6

NOTICE. The conditions of project approval set forth herein include certain fees and other exactions. Pursuant to Government Code Section 66020 (d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and exactions. The applicant is hereby further notified that the 90-

day appeal period, in which the applicant may protest these fees and other exactions, pursuant to Government Code Section 66020 (a) has begun. If the applicant fails to file a protest within this 90-day period complying with all requirements of Section 66020, the applicant will be legally barred from later challenging such fees or exactions.

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision, by filing with the Planning and Building Department a written notice of appeal stating the basis of appeal and paying the required fees.

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